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8 **UNITED STATES BANKRUPTCY COURT**

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10 **NORTHERN DISTRICT OF CALIFORNIA**

11 **SAN FRANCISCO DIVISION**

12 **In re:**

13 **PG&E CORPORATION**

14 -and-

15 **PACIFIC GAS AND ELECTRIC
COMPANY,**

16 **Debtors.**

17 Affects PG&E Corporation

18 Affects Pacific Gas and Electric Company

19 Affects both Debtors

20 *All papers shall be filed in the Lead Case,
21 No. 19-30088 (DM)

22 Bankruptcy Case
No. 19-30088 (DM)

23 Chapter 11
(Lead Case)
(Jointly Administered)

24 **JOINDER IN MOTION OF OFFICIAL
COMMITTEE OF TORT CLAIMANTS FOR
RELIEF FROM AUTOMATIC STAY TO
PERMIT STATE COURT JURY TRIAL OF
2017 TUBBS WILDFIRE CLAIMS
(Docket Nos. 2842-2851)**

25 **JOINDER IN MOTION OF OFFICIAL COMMITTEE OF TORT CLAIMANTS FOR RELIEF FROM
26 AUTOMATIC STAY TO PERMIT STATE COURT JURY TRIAL OF 2017 TUBBS WILDFIRE CLAIMS
27 (Docket Nos. 2842-2851)**

1 **I. INTRODUCTION**

2 Fire Victim Claimants Armando A. Berriz and heirs of Carmen Caldentey Berriz (Armando
3 J. Berriz, Carmen T. Meissner, Monica Berriz), along with the Estate of Carmen Caldentey Berriz,
4 represent two of the eleven claims from the 2017 Tubbs Fire for which the Official Committee of
5 Tort Claimants (the “TCC”) has made an Amended Motion for Relief From Automatic Stay,
6 hereinafter referred to as the “TCC Motion,” asking the court to allow eleven Tubbs Fire claims to
7 proceed to trial against Debtors and to request that the Coordination Trial Judge in the California
8 North Bay Fire Cases, JCCP 4955 (the “Coordinated Action”), order the eleven cases to trial with
9 preference pursuant to California *Code of Civil Procedure* § 36. Armando A. Berriz and heirs of
10 Carmen Caldentey Berriz (Armando J. Berriz, Carmen T. Meissner, Monica Berriz), along with the
11 Estate of Carmen Caldentey Berriz, hereby join, as moving parties, the TCC Motion.

12 Fire Victim Claimants, Armando A. Berriz and heirs of Carmen Caldentey Berriz (Armando
13 J. Berriz, Carmen T. Meissner, Monica Berriz), along with the Estate of Carmen Caldentey Berriz,
14 are represented by the firm of Panish Shea & Boyle LLP in the Coordinated Action and the Chapter
15 11 proceeding.

16 Fire Victim Claimants, Armando J. Berriz, Carmen T. Meissner, Monica Berriz, and the
17 Estate of Carmen Caldentey Berriz are indivisible parties of record in the Coordinated Action and
18 in this pending Chapter 11 proceeding. They are also represented by the firm of Panish Shea &
19 Boyle LLP in the Coordinated Action and the Chapter 11 proceeding. They are not among the
20 specific victims identified in the TCC Motion.

21 For the reasons set forth below, Armando A. Berriz, Armando J. Berriz, Carmen T. Meissner,
22 Monica Berriz, and the Estate of Carmen Caldentey Berriz hereby join, as moving parties, in the
23 TCC’s Motion and respectfully request that this Court grant the relief from automatic stay as
24 requested in that motion.

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JOINDER IN MOTION OF OFFICIAL COMMITTEE OF TORT CLAIMANTS FOR RELIEF FROM
AUTOMATIC STAY TO PERMIT STATE COURT JURY TRIAL OF 2017 TUBBS WILDFIRE CLAIMS

II. JOINDER OF ARMANDO A. BERRIZ AND HEIRS OF CARMEN CALDENTEY BERRIZ (ARMANDO J. BERRIZ, CARMEN T. MEISSNER, MONICA BERRIZ), ALONG WITH THE ESTATE OF CARMEN CALDENTEY BERRIZ

Fire Victim Claimants Armando J. Berriz, Carmen T. Meissner, and Monica Berriz are wrongful death heirs of Carmen Berriz and hereby seek relief from the automatic stay, along with the Estate of Carmen Caldentey Berriz and Armando A. Berriz. All hereby join, as moving parties, the TCC's Amended Motion for relief from automatic stay.

Mr. Armando A. Berriz and Mrs. Carmen Berriz (both in their 70s) lived in Southern California, but every year traveled to Wine Country for several months of extended vacation at a rental. In 2017, while they were staying at their rental in Santa Rosa, the Tubbs Fire hit and the Berriz's were not able to escape in time. They sought refuge in the pool on the property while the fire roared around them, but Mrs. Berriz suffocated and died in her husband's arms while trapped in the pool. Mr. Berriz suffered severe catastrophic injuries and has a bystander and wrongful death claim. Mrs. Berriz was also survived by her three adult children who were very close to her: (1) Monica Ocon; (2) Carmen T. Berriz; and (3) Armando J. Berriz.

The wrongful death heirs of decedent Carmen Berriz (Monica Ocon, Carmen T. Berriz, and Armando J. Berriz) have substantial interests relating to the subject of the proposed preference trial under the California *Code of Civil Procedure* § 36(e), which provides: “Notwithstanding any other provision of law, the court may in its discretion grant a motion for preference that is supported by a showing that satisfies the court that the interests of justice will be served by granting this preference.” The interest of justice will be served by granting preference to the wrongful death heirs of Carmen Berriz, as the decedent’s heirs have already waited nearly two years for justice and recovery of their father’s estate and their significant and irreplaceable losses.

Mr. Armando A. Berriz also qualifies for trial preference under California *Code of Civil Procedure* § 36(e). The interest of justice will be served by granting preference to Armando A. Berriz, who suffered severe, catastrophic injuries, perceived the death of his beloved wife, and has lost her love, companionship, and solace, but has seen no recovery of his losses for nearly two years.

1 The discretionary joinder of parties with related claims in a preference action is also
2 specifically permitted by California *Code of Civil Procedure* § 36(e). Failure to allow them to join
3 in the preference motion will both impair and impede those interests and may subject Debtors to a
4 substantial risk of inconsistent obligations.

Also, the above Claimants are indispensable parties under California *Code of Civil Procedure* § 389 whose joinder in their family's preference trial would be compulsory should the Coordination Trial Court grant the anticipated preference motion in the Coordinated Action.

⁸ California *Code of Civil Procedure* § 389(a) provides:

“(a) A person who is subject to service of process and whose joinder will not deprive the court of jurisdiction over the subject matter of the action shall be joined as a party in the action if (1) in his absence complete relief cannot be accorded among those already parties or (2) he claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may (i) as a practical matter impair or impede his ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of his claimed interest. If he has not been so joined, the court shall order that he be made a party.”

III. CONCLUSION

For all of the foregoing reasons, Armando A. Berriz, Armando J. Berriz, Carmen T. Meissner, Monica Berriz, and the Estate of Carmen Caldentey Berriz, each respectfully request, as moving parties, that this Court grant the TCC Motion for relief from the automatic stay to allow them to: (a) file a motion for trial preference pursuant to California *Code of Civil Procedure* § 36 in the San Francisco Superior Court; and (b) proceed to a jury trial in San Francisco County Superior Court on their claims arising out of the 2017 Tubbs Fire.

Respectfully submitted,

22 | DATED: July 11, 2019

PANISH SHEA & BOYLE LLP

By:

BRIAN PANISH
RAHUL RAVIPUDI